

FEDERAL RESERVE SYSTEM

12 CFR Part 268

[Docket No. OP-1264]

Rules Regarding Equal Opportunity

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interim rule with request for comments.

SUMMARY: The Board of Governors of the Federal Reserve System (the Board) is soliciting comments on a new interim rule that would amend the section of its Rules Regarding Equal Opportunity (EEO Rules) which governs the employment of persons who are not United States citizens consistent with the Board's requirements for the security of its information. The amendment revises an earlier interim rule that clarified the limitations on access to sensitive information by non-citizen employees to Federal Open Market Committee (FOMC) information.

The amendment, which concerns the internal management of the Board, is issued as an immediately effective interim rule, with opportunity for public comment, to ensure that hiring decisions facing the Board can be made as soon as possible.

DATES: Effective Date: This interim rule is effective August 7, 2006.

Applicability Date: This interim rule is applicable to all decisions on access to Sensitive Information of the Board as of August 7, 2006 .

Comment Date: Submit comments on or before October 6, 2006.

ADDRESSES: You may submit comments, identified by Docket No. OP-1264, by any of the following methods:

- Agency Web Site: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: regs.comments@federalreserve.gov. Include docket number in the subject line of the message.
- FAX: 202/452-3819 or 202/452-3102.
- Mail: Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551.

All public comments are available from the Board's web site at www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP-500 of the Board's Martin Building (20th and C Streets, N.W.) between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Alicia S. Foster, Senior Counsel (202-452-5289), Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue N.W., Washington, D.C., 20551. For users of Telecommunications Device for the Deaf ("TDD") only, contact 202/263-4869.

SUPPLEMENTARY INFORMATION:

The Board proposes to amend § 268.205 of its Rules Regarding Equal Opportunity (12 CFR 268.205), governing the employment of persons who are not United States citizens in accordance with the Board's security requirements. The amendments are effective immediately, subject to revision based on public comment.

On November 7, 2005, by an immediately effective interim rule, the Board amended § 268.205 to permit the Board to hire certain Non-Citizens into positions requiring access to information of the Federal Open Market Committee (FOMC), subject to certain conditions and a preference for U.S. citizens over equally qualified non-citizens. The Board received no comments on the November 2005 interim rule. After the Board published the November 2005 interim rule and before the Board published the rule in final form, however, it became apparent that the hiring needs that exist with respect to FOMC Information that prompted the need to change the rules also exist with respect to Confidential Supervisory Information, a second category of Sensitive Information. Therefore, this new interim rule extends the hiring requirements that apply to FOMC Information to Confidential Supervisory Information and makes some additional modifications that apply to access to FOMC and Confidential Supervisory Information. Similar to the November 2005 interim rule, however, this interim rule does not change the rules for access to National Security Classified Information as access to that information is governed by the applicable executive orders.

Confidential Supervisory Information, which generally consists of information regarding the Board's examination and supervision of entities subject to its jurisdiction, is one of three types of information defined as "Sensitive Information" under § 268.205.

The other two types of “Sensitive Information” are information of the FOMC and National Security Classified Information. The Board is proposing to amend the rules governing who may be hired as an employee into a position requiring access to Confidential Supervisory Information for the same business reasons that it changed the hiring rules applicable to positions requiring access to FOMC Information. As discussed in the November 2005 interim rule, in recent years, the Board, like employers throughout the United States, has been having greater difficulty identifying qualified U.S. citizens, U.S. nationals, and non-citizens who are eligible to obtain and do, in fact, seek U.S. citizenship (the three categories of persons that the rule refers to as “Protected Individuals”) as candidates for positions in a number of important job families. In particular, the pool of graduates who have a Ph.D. in economics or finance, who possess the skills needed for the particular position and who are also Protected Individuals has diminished significantly over the past two decades.

Currently, the Board’s rules limit access to Confidential Supervisory Information to Protected Individuals. To address the diminishing number of available U.S. citizens who are graduates with Ph.Ds in economics or finance and who also possess the other skills needed for the position, the Board proposes to revise its policy regarding hiring for positions that require access to Confidential Supervisory Information. The Board proposes to amend its rule to allow it to hire individuals who are not Protected Individuals and who do not intend to become U.S. citizens (“Non-Citizens”) into positions that require access to Confidential Supervisory Information using the same parameters that apply to FOMC Information. The interim rule retains the Board’s

preference for U.S. citizens and U.S. nationals over equally qualified persons who are not U.S. citizens or U.S. nationals.

The proposed exception for hiring, which is the same as that for FOMC Information, limits hiring in positions that require access to Confidential Supervisory Information to those positions where the Board determines that hiring a Non-Citizen is appropriate. At present, the Board has extended this exception only to positions requiring a Ph.D. in economics or finance. For ease of reference, this interim rule uses the term “Eligible Position” to describe a position or job family that requires access to Sensitive Information that is covered by this exception. The Board has determined, however, that it is not appropriate to hire a Non-Citizen as an Examiner with a standard credential (meaning a position whose primary responsibility is to participate regularly in examinations or inspections of institutions for which the Federal Reserve serves as the primary federal regulator). Accordingly, this position is not an Eligible Position and only a Protected Individual may be appointed as an Examiner with a standard credential.

This interim rule also parallels the country of origin requirements that were adopted for access to FOMC Information. Thus, as with the FOMC provisions, for purposes of hiring an individual into an Eligible Position that requires access to Confidential Supervisory Information, the interim rule distinguishes between Non-Citizens who are from a country on the Country List and those Non-Citizens that are from a country that is not on the Country List. The Country List, which is contained in the annual appropriations’ laws, specifies those countries that are exempt from the ban on

the use of appropriated funds and the categories of individuals who are eligible for hire as federal employees using appropriated funds.¹

Further, similar to the provisions for access to FOMC Information, the level of access to Confidential Supervisory Information also is determined based on the sensitivity of the information. Confidential Supervisory Information is designated internally into one of three security designations: Internal Federal Reserve (FR), Restricted FR, and Restricted-Controlled FR, with Restricted-Controlled FR as the most sensitive. These designations correspond to the designations for FOMC Information as follows: Internal FR to FOMC Class III; Restricted FR to FOMC Class II; and, Restricted-Controlled FR to FOMC Class I. Under this interim rule, the Board may hire a Non-Citizen from a country that is on the Country List as an Employee into a position that requires access to Confidential Supervisory Information classified as Internal FR or Restricted FR. In addition, if he or she meets the three conditions set forth in the rule, which, are the same conditions that apply to FOMC Information, that person may be granted access to Restricted Controlled-FR information. Those conditions are: (1) the Employee's Division Director recommends the employee be given access to Restricted-Controlled FR information; (2) the Employee has resided in the United States for at least six years and has been employed for at least two years with the Board and/or with one or more of the Reserve Banks; and (3) the Employee has passed a background investigation acceptable to the Board. If the Country List changes so that the Employee's country is no longer on the Country List, the Employee's access or eligibility for access to Confidential

¹The appropriations' ban that contains the Country List is codified at 5 U.S.C. 3101 *note*. Because the Board's funds are not appropriated, the Board is not subject to this limitation on hiring. However, Congress periodically affirms that other government agencies may use appropriated funds to hire non-citizens from countries on the Country List. The rule uses the term "Country List" as a common point of reference.

Supervisory Information would not be affected by the change in the Country List so long as the Employee continues to meet the remaining conditions outlined above for Employees from a country on the Country List.

Under the interim rule, the Board may hire a person who is a Non-Citizen from a country that is not on the Country List into a position that requires access to Internal FR information. Upon meeting the three conditions discussed above, a Non-Citizen from such a country may also be granted access to Restricted FR information. However, the Board would not employ a Non-Citizen from a country that is not on the Country List in a position that requires access to Restricted-Controlled FR information.

While this rule focuses on Board employment, the Board's rule also affects Federal Reserve Banks because the Reserve Banks perform activities under authority delegated by the Board and because those activities involve access to Board information. This interim rule clarifies that Reserve Bank staff who seek access to Confidential Supervisory Information must meet the same conditions as apply to Board staff.² Specifically, the interim rule adds a new paragraph (c)(4) to address access by Reserve Bank employees to FOMC and Confidential Supervisory Information. Under this provision, to have access to Confidential Supervisory Information, a Reserve Bank employee must be a Protected Individual or a Non-Citizen who is hired into an Eligible Position and meets the requirements for access by Non-Citizens. This means that, to receive access to the corresponding next higher level of Confidential Supervisory Information (i.e., for non-Country List--Internal FR to Restricted FR and for Country List--Restricted FR to Restricted-Controlled FR), the Employee must meet the residency

² For FOMC Information, Reserve Bank employees seeking access to FOMC Information must comply with the rules of the FOMC, which are the same as the Board's rules.

and other requirements applicable to similarly situated Board employees. Once the Employee meets the residency and other requirements, the Reserve Bank's officer in charge of the supervision department may recommend that the Employee receive the next higher level of access. For access to Confidential Supervisory Information, the Board's Division of Banking Supervision and Regulation (BS&R) must concur with the recommendation. Upon the Employee's satisfactory completion of the background investigation, the Board's Director of BS&R could approve the Employee's access to the next higher level of information, subject to the limits on access applicable to the Employee's country of citizenship.

Beyond the changes discussed previously, the interim rule includes a number of technical changes. It includes a more comprehensive definition of "Confidential Supervisory Information" that describes the three internal security designations that apply to this information. In addition, the interim rule clarifies that its focus is employees and thus, in paragraph (b)(3), which discusses access to Sensitive Information, the phrase "hire a person to a position" was changed to "hire a person as an Employee."

Moreover, because the existing definition of "Non-Citizen," which was based on the term's general usage in law, was not consistent with its more limited use under this rule, a Non-Citizen for purposes of this rule is now defined as "any person who is not a Protected Individual." As a result of this change to the term "Non-Citizen," changes have also been made to other parts of the rule that use the same term. Specifically, in the definition of "Country List," the term "Non-Citizen" is replaced with "person." In addition, in the paragraph setting forth the Board's preference for U.S. citizens and U.S.

nationals, the term “Non-Citizen” is replaced with the phrase “who is not a citizen or National of the United States.”

In an attempt to clarify the rule further, the definition of “Country List” is also revised to more accurately reflect that the Country List is not a separate list but rather is part of a broader listing of persons and countries exempted from the federal appropriations’ ban. In this same vein, paragraph (c)(1) of the rule is changed to provide that access to any level of Sensitive Information includes access to the lower levels of that type of information. Thus, for example, a person granted access to Restricted-Controlled Information also has access to Restricted FR and Internal FR information. Similarly, a person granted access to Class I FOMC Information also has access to Class II and Class III FOMC Information.

Further, the interim rule includes a revised definition of “Protected Individual” that provides an additional means by which a person may be considered a Protected Individual. The change is meant to allow an existing Federal Reserve employee who is a lawfully admitted permanent resident alien, refugee, or a person granted asylum to qualify as a Protected Individual for purposes of the Board’s rule even if the person filed for citizenship beyond the six month period set forth in 8 U.S.C. § 1324(b)(3)(B)(i). To qualify, the Employee must have been employed by the Federal Reserve as of January 1, 2006, must have filed for U.S. citizenship, and must obtain such citizenship within two years of applying for it. In addition, paragraph (c)(4)(ii) provides that the rule does not affect access that was granted to a Reserve Bank employee to Confidential Supervisory Information if that access was granted before the effective date of this rule. The Board

believes these two limited exceptions are necessary and appropriate to accommodate individuals who are existing System employees.

Finally, to keep the provisions for FOMC Information substantively the same as those for Confidential Supervisory Information, paragraphs (c)(2)(i) and (ii) are changed to parallel the language in the corresponding paragraphs covering Confidential Supervisory Information. Further, paragraph (c) is renumbered to accommodate the addition of the new paragraph (c)(4). In addition, to improve the structure of paragraph (c), paragraph (c)(3) on Classified National Security Information is moved to paragraph (c)(5) while paragraph (c)(4) on Confidential Supervisory Information is moved to paragraph (c)(3).

This rule relates solely to matters of agency management or personnel, and, therefore, is not subject to the public notice and comment provisions of the Administrative Procedures Act, 5 U.S.C. 553(a)(2). However, the Board has in the past found public comment on such matters to be helpful and invites comment on this rule. While allowing comment, the Board has determined that it is unnecessary, and would be impracticable, to defer the effective date of this action until after notice and after public comments have been received and considered (5 U.S.C. 553(d)(3)). Issuance of this rule as an interim rule is appropriate, in any event, because the rule concerns only the internal management and personnel of the Board and is not subject to statutory delay. In addition, the Board is facing immediate hiring decisions that would be subject to this rule. The Board believes that issuance of the regulation as an interim rule is necessary for the Board to conduct its internal management in an expeditious and efficient manner. The Board will consider all public comments received and make changes in its procedures

based on those comments where appropriate. On these bases, the Board has determined that good cause exists to make this action effective immediately. As this rule concerns only agency management or personnel, it is not a rule subject to the Congressional Review Act (CRA), 5 U.S.C. 804(3)(B), and therefore an analysis under the CRA is not required.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 et seq.), the Board believes that this rule will not have a significant economic impact on a substantial number of small entities. This rule governs the Board's dealings with its employees and applicants for employment, and would not affect small entities as defined for purposes of the Regulatory Flexibility Act. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. ch. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the proposal under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in this proposal.

Plain Language

Section 722 of the Gramm-Leach-Bliley Act requires each federal banking agency to use plain language in all rules published after January 1, 2000. In light of this requirement, the Board has sought to present the interim rule in a simple and straightforward manner. The Board invites comment on whether the Board could take additional steps to make the rule easier to understand.

12 CFR Chapter II

List of Subjects in 12 CFR part 268

Administrative practice and procedure, Aged, Civil rights, Equal employment opportunity, Federal buildings and facilities, Federal Reserve System, Government employees, Individuals with disabilities, Religious discrimination, Sex discrimination, Wages.

Authority and Issuance

For the reasons set out in the preamble, the Board amends 12 CFR part 268 as follows:

Part 268-RULES REGARDING EQUAL OPPORTUNITY

1. The authority citation for part 268 continues to read as follows:

Authority: 12 U.S.C. 244 and 248 (i), (k), and (l).

2. Revise § 268.205 to read as follows

§ 268.205 Employment of aliens; Access to sensitive information

(a) Definitions. The definitions contained in this paragraph (a) apply only to this section:

(1) Classified Information means information that is classified for national security purposes under Executive Order No. 12958, entitled “Classified National Security Information,” including any amendments or superseding orders that the President of the United States may issue from time to time.

(2) Confidential Supervisory Information means confidential supervisory information of the Board, as defined in 12 CFR § 261.2(c). Three internal security designations,

which are subject to change by the Board, apply to Confidential Supervisory Information.

Those designations are:

(i) Restricted-Controlled FR generally applies to information that, if disclosed to or modified by unauthorized individuals, might result in the risk of serious monetary loss, serious productivity loss or serious embarrassment to the Federal Reserve System.

Examples of Confidential Supervisory Information designated as Restricted-Controlled FR include, but are not limited to, certain significant lists of financial institution supervisory ratings and nonpublic advance information regarding bank mergers or failures.

(ii) Restricted FR covers information that is less sensitive than Restricted-Controlled FR information and, in general, is the largest category of Confidential Supervisory Information. This information, if disclosed to or modified by unauthorized individuals, might result in the risk of significant monetary loss, significant productivity loss, or significant embarrassment to the Federal Reserve System. Examples of Confidential Supervisory Information designated as Restricted FR include, but are not limited to, single supervisory ratings (e.g., CAMELS, BOPEC, etc.), Federal Reserve examination and inspection reports and workpapers, Interagency Country Exposure Review Committee (ICERC) country exposure determinations, and shared national credit data or listings.

(iii) Internal FR covers information that is less sensitive than Restricted FR or Restricted-Controlled FR and generally applies to information that, if disclosed to or modified by unauthorized individuals, might result in the risk of some monetary loss, some productivity loss, or some embarrassment to the Federal Reserve System.

Examples of Confidential Supervisory Information designated as Internal FR include, but are not limited to, foreign banking organization country studies and Federal Reserve risk assessments.

(3) Country List refers to the list contained in the annual federal appropriations' laws of specific countries, including a general category of "countries allied with the United States in a current defense effort," from which particular categories of persons who are exempt from a ban on the use of appropriated funds are eligible to be hired as Federal employees in the excepted service or in the senior executive service. The appropriations' ban is codified at 5 U.S.C. 3101 *note*. The list of eligible countries and persons is subject to legislative and other change.

(4) Eligible Position refers to a position or job family requiring access to Sensitive Information for which the Board determines that hiring a Non-Citizen is appropriate.

(5) Employee means an individual who works full-time or part-time and is appointed into Board service for a period of more than 90 days. The term "Employee" does not include members of the Board.

(6) FOMC Information means confidential information of the Federal Open Market Committee (FOMC) regardless of the form or format in which it is created, conveyed, or maintained. FOMC Information includes information derived from confidential FOMC materials. Three internal security designations, which are subject to change by the FOMC, apply to FOMC Information as follows:

(i) Class I FOMC generally applies to materials containing policymaker input, such as that related to monetary policy decisions at meetings, views expressed by policy makers on future policy, and identification of meeting participants who express particular views.

Examples of Class I FOMC Information include, but are not limited to, the “Bluebook,” drafts of meeting minutes, unreleased meeting transcripts, documents reflecting the preparation of semi-annual forecasts and related testimony, and certain sensitive internal memorandums and reports.

(ii) Class II FOMC covers information that is less sensitive than Class I FOMC. This designation generally applies to staff forecasts prepared for the FOMC and to information about open market operations. Examples of Class II FOMC Information include, but are not limited to, Part I of the “Greenbook,” reports of the Manager on domestic and foreign open market operations, and other materials on economic and financial developments.

(iii) Class III FOMC covers information that is less sensitive than either Class II or Class I. This designation generally applies to background information supporting policy discussions and includes, but is not limited to, Part II of the Greenbook.

(7) National refers to any individual who meets the requirements described in 8 U.S.C. § 1408.

(8) Non-Citizen refers to any individual who is not a Protected Individual.

(9) Protected Individual means--

(i) A citizen or National of the United States,

(ii) An alien who:

(A) Meets the conditions set forth in 8 U.S.C. § 1324b(a)(3)(B), as amended, and

(B) Has filed with the Board or the appropriate Federal Reserve Bank a declaration of intention to become a citizen of the United States, or

(iii) An alien who:

(A) Is lawfully admitted for permanent residence, is admitted for temporary residence under 8 U.S.C. § 1160(a) or § 1255a(a)(1), is admitted as a refugee under 8 U.S.C. § 1157, or is granted asylum under 8 U.S.C. § 1158;

(B) Was an Employee of the Board or a Federal Reserve Bank on January 1, 2006;

(C) Before requesting access to Sensitive Information filed an application for U.S. citizenship; and

(D) Has had his or her application for citizenship pending for two years or less, unless in the case of an application pending for a longer period, the alien can establish that the alien is actively pursuing naturalization. Time consumed by the Department of Homeland Security, Citizenship and Immigration Services (or its predecessor or successor agency) in processing the application shall not be counted toward the 2-year period.

(10) Sensitive Information means FOMC Information, Classified Information, and Confidential Supervisory Information.

(b) Hiring and access.

(1) Prohibition against hiring unauthorized aliens. An individual is eligible for employment with the Board only if he or she satisfies the requirements of Section 101 of the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324a.

(2) Preference. Consistent with applicable law, where two applicants for employment at the Board are equally qualified for a position, the Board shall prefer the citizen or National of the United States over the equally qualified person who is not a citizen or National of the United States.

(3) Protected Individuals' access to Sensitive Information. The Board may hire a person as an Employee into a position that requires access to Sensitive Information if the person is a Protected Individual.

(4) Non-Citizens' access to Sensitive Information. The Board shall not hire a Non-Citizen into a position that requires access to Sensitive Information unless the Non-Citizen:

- (i) Is in an Eligible Position; and
- (ii) Meets the requirements of paragraph (c) of this section allowing access to Sensitive Information.

(c) Access to Sensitive Information.

(1) Generally. The Board will grant access to Sensitive Information only in accordance with the Board's rules and policies regarding access to Sensitive Information and, if applicable, the rules and policies of the FOMC. Access to any level of Sensitive Information includes access to all lower levels of that type of Sensitive Information. An Employee who is not a Protected Individual may not have access to FOMC Information or Confidential Supervisory Information unless otherwise permitted by this paragraph (c).

(2) FOMC Information.

(i) Access by a Non-Citizen from a country on the Country List. An Employee in an Eligible Position who is a Non-Citizen from a country that, on the date the Employee begins employment with the Federal Reserve System or on the date access is granted, is on the Country List shall be granted access to Class I FOMC Information only if the Employee:

- (A) Has been recommended for such access by the Employee's Division Director;

(B) Has been resident in the United States for at least six years, at least two of which include satisfactory employment with the Board and/or one or more of the Federal Reserve Banks; and

(C) Has completed a background investigation acceptable to the Board.

(ii) Access by a Non-Citizen from a country not on the Country List. An Employee in an Eligible Position who is a Non-Citizen from a country that, on the date the Employee begins employment with the Federal Reserve System and on the date access is granted, is not on the Country List:

(A) Shall not be granted access to Class I FOMC Information, and

(B) Shall be granted access to Class II FOMC Information only upon:

(1) The recommendation of the Employee's Division Director;

(2) Six years of residence in the United States, at least two of which include satisfactory employment by the Board and/or one or more of the Federal Reserve Banks; and

(3) Completion of a background investigation acceptable to the Board.

(iii) Changes to the Country List. If the Employee's country is deleted from the Country List after the date the Employee begins employment with the Federal Reserve System, the Employee's existing access to Class I or Class II FOMC information will not be affected by the change in the Country List. Similarly, the Employee would continue to be eligible for access to Class I information and may be granted such access if he or she meets the remaining conditions outlined in paragraph (c)(2)(i) for employees from a country on the Country List.

(3) Confidential Supervisory Information.

(i) Access by a Non-Citizen from a country on the Country List. An Employee in an Eligible Position who is a Non-Citizen from a country that, on the date the Employee begins employment with the Federal Reserve System or on the date access is granted, is on the Country List shall be granted access to Confidential Supervisory Information designated as Restricted-Controlled FR only if the Employee:

(A) Has been recommended for such access by the Employee's Division Director;

(B) Has been resident in the United States for at least six years, at least two of which include satisfactory employment with the Board and/or one or more of the Federal Reserve Banks; and

(C) Has completed a background investigation acceptable to the Board.

(ii) Access by a Non-Citizen from a country not on the Country List. An Employee in an Eligible Position who is a Non-Citizen from a country that, on the date the Employee begins employment with the Federal Reserve System and on the date access is granted, is not on the Country List:

(A) Shall not be granted access to Confidential Supervisory Information designated as Restricted-Controlled FR; and

(B) Shall be granted access to Confidential Supervisory Information designated as Restricted FR only upon:

(1) The recommendation of the Employee's Division Director;

(2) Six years of residence in the United States, at least two of which include satisfactory employment by the Board and/or one or more of the Federal Reserve Banks; and

(3) Completion of a background investigation acceptable to the Board.

(iii) Changes to the Country List. If the Employee's country is deleted from the Country List after the date the Employee begins employment with the Federal Reserve System, the Employee's existing access to Confidential Supervisory Information designated as Restricted FR or Restricted-Controlled FR will not be affected by the change in the Country List. Similarly, the Employee would continue to be eligible for access to Confidential Supervisory Information designated as Restricted-Controlled FR information and may be granted such access if he or she meets the remaining conditions outlined in paragraph (c)(3)(i) for employees from a country on the Country List.

(4) Access to Sensitive Information by Reserve Bank employees.

(i) FOMC Information. A Reserve Bank employee will be granted access to FOMC Information in accordance with the rules of the FOMC.

(ii) Confidential Supervisory Information. A Reserve Bank employee will be granted access to Confidential Supervisory Information only to the extent the employee meets all of the requirements for access to Confidential Supervisory Information provided in this paragraph (c) and the employee has received approval for such access from the Board's Director for Banking Supervision and Regulation. Notwithstanding the foregoing, this rule does not affect access that has been granted to employees hired before the effective date of this rule.

(5) Classified Information. Access to Classified Information is limited to those

persons who are permitted access to Classified Information pursuant to the applicable executive orders and any subsequent amendments or superseding orders that the President of the United States may issue from time to time.

By order of the Board of Governors of the Federal Reserve System, August 1, 2006.

Jennifer J. Johnson
Secretary of the Board